

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 12297 of 2006(L)

PETITIONER:

**PROVIDENCE APPAREL EXPORTS PRIVATE LTD.
MANKILETTU BUILDING, 101 JUNCTION, ETTUMANOOR,
KOTTAYAM, REPRESENTED BY ITS MANAING DIRECTOR,
SHEEBA NAJEEB.**

BY ADV. SRI.M.P.MADHAVANKUTTY

RESPONDENTS:

- 1. THE PRINCIPAL SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, VIKAS BHAVAN,
THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR,
INDUSTRIES DEPARTMENT, VIKAS BHAVAN,
THIRUVNANTHAPURAM.**
- 3. THE GENERAL MANAGER,
DISTRICT INSUSTRIES CENTRE,
OZHATHIL LANE, DISTRICT INDUSTRIES, CENTRE BLDGS.
KOTTAYAM.**
- 4. KOTTAYAM MUNICIPALITY,
REPRESENTED BY ITS SECRETARY.**
- 5. M/S.HOLY APPARELS EXPORTS (PVT)LTD.,
KANJIKUZHI, KOTTAYAM, REPRESENTED BY ITS
MANAGING DIRECTOR, LIZZIE GEORGE.**

**BY ADV. SRI.SIBY MATHEW
SRI.A.A.MOHAMMED NAZIR
GOVERNMENT PLEADER SRI.BASANT BALAJI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21/08/2007, ALONG WITH WPC NO. 13576 OF 2006
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

W.P(C). NO.12297/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE G.O.(RT) 232/03 I.D. DT. 7.3.03.

**EXT.P2:- COPY OF THE MINUTES HED IN THE CHAMBER OF THE 2ND
RESPONDENT ON 27.4.05.**

**EXT.P3:- COPY OF THE LATEST APPLICATION DT. 25.1.06 SUBMITTED BY
THE PETITIONER BEFORE THE 3RD RESPONDENT.**

EXT.P4:- COPY OF THE G.O.(RT) NO.346/06/ID DT. 25.3.06.

**EXT.R5(a):- COPY OF THE ORDER DT. 26.3.03 ISSUED BY THE 2ND
RESPONDENT.**

**EXT.R5(b):- COPY OF THE CERTIFICATE DT. 27.4.05 ISSUED BY THE 2ND
RESPONDENT.**

/TRUE COPY/

P.A. TO JUDGE

tss

S. SIRI JAGAN, J.

W.P.(C)NOs. 12297,13576 OF 2006

DATED THIS THE 21st DAY OF AUGUST, 2007

JUDGMENT

The petitioner is a private limited Company engaged in the business of manufacturing garments. In the year 2002-03, the Central Government formulated a scheme for development of enterprises for educated women just above the poverty line. An amount of Rs.3 crores have been sanctioned and made over to the State Government for this purpose. The intention behind the scheme is to set up an apparel park with common facilities which are to be made use of by small SSI units engaged in the manufacture of garments. Originally the Kottayam Municipality agreed to provide land for the setting up of the apparel park. Later on they withdrew from the offer. In the said circumstances, the petitioner in W.P.(C)No.12297/06 came forward to set up the apparel park with the financial assistance offered as above. However, among the members of the Company difference of opinion arose, as a result of which some of the members formed two other companies. These three companies vied with each other for setting up of the park and ultimately by Ext.P4 order in W.P.(C)No.12297/06, the Government formulated the modalities for implementation of the

Central Government scheme. It appears that on the basis of Ext.P4, the petitioner in W.P.(C)No.13576/06 came forward to set up the park in accordance with Ext.P4, which was allowed by the Government and the District Industries Centre. Amounts have been put in the joint account of the petitioner in W.P.(C)No.13576/07 and the District Industries Manager for implementation. It is under the above circumstances, the petitioner in W.P.(C)No.12297/06 has filed that writ petition seeking the following reliefs.

- i) to issue a writ of certiorari and quash Exhibit-P4 as illegal and arbitrary;
- ii) to issue a writ of mandamus directing the third respondent to pass appropriate orders on Exhibit-P3 application;
- iii) to issue a writ of mandamus directing the third respondent to sanction a cluster development agent to petitioner's choice.
- iv) to issue such other writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstance of the case".

2. The contention in that writ petition is that by handing over the funds to the petitioner in W.P.(C)No.13576/06, the respondents have violated the purpose of the scheme and allowed a single Company to enjoy the financial assistance given under the scheme which is intended for the benefit of others also. According to the petitioner in that writ petition that the same amounts to violation of the scheme formulated by the Central Government.

3. The petitioner in W.P.(C)No.13576/06, filed that writ petition in view of the failure on the part of the respondents to release funds for setting up of the apparel park in accordance with the project report submitted by them. Therefore, they have sought the following reliefs in their writ petition.

“a) issue a writ of mandamus or other appropriate writ, order or direction, directing the respondents to disburse the amount sanctioned as per Exhibit-P5 Government Order,

b) Hold that the delay in disbursing the amount sanctioned in Exhibit P-5 is arbitrary and illegal,

c) issue a writ of mandamus or other appropriate writ, order or direction, directing the 3rd respondent to act upon Exhibits P-6 and P-7 forthwith and

d) Be further pleased to issue such other writs, orders and directions as are deemed fit in the facts and circumstances of the case”.

4. Now it is clear that W.P.(C)No.13576/06 was necessitated only because of the order of status quo dated 23.5.06 passed in W.P.(C)No.12297/06. As such once W.P.(C)No.12297/06 is decided finally, it may not necessary to go into the contentions in W.P.(C)No.13576/06 at all.

5. The contention of the petitioner in W.P.(C)No.13576/06, who is the 5th respondent in W.P.(C)No.12297/06 is that there is no departure from the original scheme at all and in fact the 5th respondent is setting up an apparel park itself in accordance with a project report submitted by them in tune with the objects of the

scheme framed by the Central Government itself. They would contend that there is absolutely no merit in the contention in W.P. (C)No.12297/06 in so far as the petitioner therein submitted Ext.P3 application along with project report only on 25.1.06 much after the petitioner in W.P.(C)No.13576/06 submitted their project report which had already been accepted and acted upon by them.

6. I have considered the rival contentions in detail. The primary contention of the petitioner in W.P.(C)No.12297/06 appears to be that the amounts sanctioned for the scheme is being siphoned off, for the benefit of the petitioner in W.P.(C)No.13576/06 alone, instead of applying the funds to the common benefit of units engaged in the manufacture of apparels by providing the common facilities contrary to the object of the scheme. Of course, the petitioner in W.P.(C)No.12297/06 contends that the General Manger of the District Industries Centre is in collusion with the 5th respondent and they are together siphoning off the amounts in question. But the petitioner in W.P.(C)No.13576/06 submits that as is clear from the documents produced the amount is not merely given to that Company but the amount is deposited in a joint account with the General Manger of the District Industries Centre and therefore without his knowledge and his consent no amount can be spent for the purpose other than for the scheme. This stand is

fully supported by the counter affidavit filed by the Government in W.P.(C)No.13576/06. The petitioner in W.P.(C)No.12297/06 has not been able to bring on record any material in support of his contention that the amounts are being siphoned off for the benefit of private individuals without using the amount for the common benefit of small scale apparel units as envisaged in the scheme of the Central Government. The petitioner has not even cared to produce a copy of the scheme of the Central Government to substantiate his contentions. He has not impleaded the manager of the District Industries Centre in his personal capacity to allege and prove malafides/collusion as alleged by the petitioner.

7. The learned counsel for the petitioner in W.P.(C) No.13576/06 points out that the petitioner in W.P.(C)No.12297/06 had not even any contention to that effect in that writ petition. In so far as the petitioner in W.P.(C)No.12297/06 has not been able to satisfy me that Ext.P4 order of the Government is vitiated in any manner, I am not inclined to entertain that writ petition. Accordingly, W.P.(C)No.12297/06 is dismissed.

In view of the dismissal of W.P.(C)No.12297/06, W.P.(C) No.13576/06 is disposed of directing the respondents to take appropriate steps to see that the appropriate funds are provided for implementation of the scheme in accordance with Exts.P5 and P6

expeditiously, but ensuring that the funds are used strictly for the purpose of implementation of the scheme for which the funds had been allotted.

S. SIRI JAGAN, JUDGE

Acd